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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,831	09/22/2005	Roland Frans Cyrille Vanblaeze	17042-006US1 FMB/P6726US	9025
26161 7590 06/17/2009 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				
EXAMINER JACYNA, J CASIMER				
ART UNIT		PAPER NUMBER		
3754				
NOTIFICATION DATE		DELIVERY MODE		
06/17/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

10/542,831

Applicant(s)

VANBLAERE ET AL.

Examiner

J. Casimer Jacyna

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 5, 7-13, 22, 23, 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 14-21, 24-28, 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-083)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Claims 5, 7-13, 22, 23, 29 and 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/1/2008.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 27 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 42 41 074. The embodiment of figure 1 of DE discloses an article for pressurizing a fluid including a product chamber 1, a working propellant chamber located between the wall attached to 7 and expandable wall as is plunger 3 in figure 1, a reservoir propellant chamber 4, and a pressure controller 5.
4. Claims 1-4, 6, 14-21, 24, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 42 41 074 in view of WO 99/62791. DE discloses a pressure package system substantially as claimed but does not disclose the pressure controller to have a reference fluid. However, WO teaches another pressure controller having reference fluid 6 for the purpose of improving the maintenance of a constant pressure in the working pressure chamber. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of DE with a reference fluid in the pressure controller as, for example, taught by WO in order to of improving the maintenance of a constant pressure in the working pressure chamber.

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 42 41 074 in view of Everett 3,140,802. DE discloses a pressure package system substantially as claimed but does not disclose the pressure package to be plastic. However, Everett teaches another pressure package system having a plastic pressure package 18 that is made from plastic for the purpose of providing a suitable material that is readily available, flexible and impervious to the enclosed gas. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of DE with a plastic pressure package as, for example, taught by Everett in order to provide a suitable material that is readily available, flexible and impervious to the enclosed gas.

6. Applicant's arguments filed 3/17/2009 have been fully considered but they are not persuasive. Applicant contends that because DE/Richter discusses the operation of the dispenser in terms of flow rate instead of pressure that it is different. However, in order to maintain an even flow rate from the dispenser it must maintain a constant pressure. As the volume in chamber 1 decreases an equal volume of gas from chamber 4 must replace it in order for the output flow rate to be constant. By releasing a volume of gas equal to the dispensed volume the pressure and the flow rate of both the gas and the dispensed fluid will be constant as claimed. The pressure in 4 will decrease, however, element 6 is a choke which is set at a much lower pressure therefore, even as the pressure in chamber 4 decreases the pressure in chamber 1 is kept constant. This is how a choke operates. It is also noted that the pressure in Applicant's supply chamber 6 also decreases as the balloon B expands.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754